

# Interstate Compact on the Placement of Children (ICPC)



This policy brief is one of a series from APHSA addressing specific policies and recommendations that support the four outcome impact areas identified under our members' *Pathways* initiative. This brief supports the outcome of **Sustained Well-being of Children and Youth.**


**Imagine a world where a child no longer waits six months to a year for an interstate placement to be processed, but is placed as quickly and responsibly interstate as they are intrastate.**

The Interstate Compact on the Placement of Children (ICPC) was written in the late 1950s and adopted in the early 1960s. In the United States (50 states, the District of Columbia, and the U.S. Virgin Islands), the ICPC not only serves as the primary conduit for interstate placements—it is also the main legal mechanism outlining the mandatory legal process that must be followed before a child can be placed from one state to another for purposes of foster care and adoption. The ICPC was created to ensure that children who are placed interstate are guaranteed the same protections, services, and financial and jurisdictional safeguards as children placed intrastate.

While the 20th century welcomed the current ICPC as a novel and useful process for negotiating interstate placements and sustaining the care and well-being of children placed beyond a state's borders and its jurisdictional authority, the 21st century has shown the ICPC to be one of the most antagonizing, antiquated, and burdensome administrative processes required as part of the child-placement continuum. With the complications of intermingling the ICPC and its requirements with individual state adoption laws and the overarching child welfare legislation at both the federal and state levels, ICPC administrators are forced to compensate for an obsolete administrative process that is federally regulated but not federally funded. Striving to regulate the day-to-day policies and practices under the current ICPC legal framework—which is arguably not applicable (i.e., constitutionally) in parental placements and facing provisional legal challenges on several fronts—the current ICPC, at best, provides for a fragmented system that breeds an inefficient and sometimes ineffective use of time and resources on the part of state and county governments, the courts, and stakeholders in both the public and private sector.



The American Public Human Services Association is a bipartisan, nonprofit membership organization representing state and local human service agencies through their top-level leadership. APHSA's mission is to pursue excellence in health and human services by supporting state and local agencies, informing policymakers, and working with our partners to drive innovative, integrated, and efficient solutions in policy and practice.



The challenges, which are widely cited as caused by the ICPC or acknowledged as an inherent part of the ICPC process, include:

- delays in interstate placements that leave children in foster care awaiting interstate processing and placement six months to one year or more;
- the inability of states to collect, track, analyze, and report reliable, competent data and to exchange and evaluate case files and provide timely placement decisions;
- a lack of designated funds or a reallocation of funds and resources from the state and federal government to support and administer the compact;
- the absence of the states' adoption of a singular evaluation tool, education, and training course for licensing and computerized background checks, which promotes and provides for uniform standards of review and expedited means when approving and denying an interstate placement; and
- an unclear legal framework and outdated administrative process that does not provide clarity and legal enforcement.

## Recommendations

APHSA and its affiliate, the Association of Administrators of the Interstate Compact on the Placement of Children (AAICPC), recommend that both the state and the federal government should jointly sponsor and promote interstate placements as follows:

- Enact the New Interstate Compact for the Placement of Children (ICPC) within two years or completely federalize the interstate process:
  - To implement a new legal and procedural framework, remove procedural barriers, and provide for enforcement of the compact.
- Develop and help fund and implement a centralized national ICPC Electronic Web-Database System, which will allow all compact member states to uniformly collect, track, analyze, and report data; exchange and review case files; and provide placement decisions in real time while saving more than a million dollars annually in postage and express delivery costs.
  - The Partnership Fund for Program Integrity Innovation has awarded funds to pilot test an automated file exchange system. The Administration for Children and Families (ACF) has responsibility for implementation of the pilot and is now developing criteria for how it will contract for this work.
- Provide or reallocate funds that are specifically designated for interstate placements and the administration of the Interstate Compact on the Placement of Children.
- Utilize a singular home study tool, licensing requirements, and computerized (e.g., Live Scan) background checks when processing interstate placements to ensure processing within 30 to 60 days, comply with the Safe and Timely Interstate Placement of Foster Children Act, and promote uniformity in the standard of review for approval and denial of an interstate placement.

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## HIGHLIGHTS OF PROPOSED COMPACT PROVISIONS

The proposed Interstate Compact for the Placement of Children provides a solid legal framework for ensuring the timely placement of children across state lines, the suitability of prospective families, and the provision of needed support services. The proposed compact: (1) narrows the applicability of the compact to the interstate placement of children in the foster care system and children placed across state lines for adoption; (2) requires the development of time frames for completion of the approval process; (3) establishes clear rulemaking authority; (4) provides enforcement mechanisms; (5) clarifies state responsibility; and (6) ensures states' ability to purchase home studies from licensed agencies to expedite the process.

### APPLICABILITY (Article III)

- Compact does not apply to the placement of children by their parents: (1) into residential treatment facilities; (2) with a relative; or (3) with a non-relative, so long as the placement is not a preliminary step to adoption.
- Does not apply to foreign adoptions.
- Residential facility placements require that notice be made to the receiving state when a public child placing agency places a child in a residential facility in another state. The current compact requires approval by the receiving state prior to such placements.
- Provides an exemption for placements with a non-custodial parent, under certain circumstances.
- Includes the placement of a child adjudicated delinquent or unmanageable if the child is being placed in a residential facility or in another prospective placement in another state, and is not covered under another compact.
- Includes placements made as a preliminary step to adoption whether made by a public or private child placing agency, private person, or attorney.

### JURISDICTION (Article IV)

- Clarifies that the retention of jurisdiction means the authority of the courts and judicial officers to take and decide cases.
- Adds three additional circumstances in which the court in the sending state shall have the authority to terminate jurisdiction. These are: (1) if a guardianship is created in the receiving state with the concurrence of the court in the sending state; (2) if a tribe has petitioned for and received jurisdiction from the court in the sending state; or (3) if the child is reunified with the parent in the receiving state who is the subject of allegations or findings of abuse and neglect, if the public child placing agency in the receiving state has concurred.

### ASSESSMENTS (Article V)

- An assessment is defined as an *"evaluation of the prospective placement to determine whether the placement meets the individualized needs of the child, including but not limited to, the child's safety and stability, health and well-being, and mental, emotional, and physical development."* Currently the receiving state determines if the placement "does not appear contrary to the interests" of the child.
- Permits a sending state to request a determination of whether a placement with a relative qualifies as a provisional placement. Provisional placement is defined as *"that the placement is safe and suitable, but can be made without the completion of the receiving state's requirements regarding education and training for prospective foster or adoptive parents prior to placement."*
- Requires establishment of rules regarding the timeframes in which the receiving state must complete the assessment.

## **PLACEMENT AUTHORITY (Article VI)**

- Prohibits the placement of a child subject to the compact until the proposed placement has been deemed safe and suitable (approved) by the receiving state and found to be in compliance with the applicable laws of the receiving state.
- Provides for administrative review of the receiving state's decision at the request of any interested party to be conducted in the receiving state.

## **STATE RESPONSIBILITY (Article VII)**

- Continues financial responsibility by the sending state public child placing agency for the ongoing support and services of a child placed by the agency or court in another state.
- Clarifies that a sending state may enter into agreements with licensed agencies or persons in the receiving state to conduct assessments and provide supervision.
- Continues financial responsibility of the receiving state for the cost of the assessment of a proposed placement and ongoing supervision of a child placed by the public child placing agency or court in the sending state.
- Allows the receiving state to charge for assessments or supervision provided for placements prior to an adoption made by private child placing agencies.
- Allows states to enter into limited agreements, with consent of the member states, to facilitate the timely assessment and supervision of placements under this compact.

## **INTERSTATE COMMISSION (Article VIII - X)**

- Creates an Interstate Commission comprised of one voting representative from each member state who is appointed by the executive head of the state human service administration who has ultimate responsibility for the child welfare program.

## **RULEMAKING (Article XI)**

- Requires that the rules process operate openly and in accordance with applicable "sunshine" and open-meeting provisions and be developed through a process that substantially conforms to the principles of the Model State Administrative Procedures Act or other appropriate administrative procedure acts.

## **ENFORCEMENT (Article XII)**

- Provides for mediation and binding dispute resolution, remedial training, and specific technical assistance.
- Provides for judicial action by the member states of the Interstate Commission to enforce compliance with the compact.

## **FINANCING OF THE INTERSTATE COMMISSION (Article XIII)**

- The states that become members of the new compact and whose representatives comprise the Interstate Commission will collectively agree to a budget for support of the Interstate Commission and will determine the basis for allocating the costs among the member states.

## **TRIBES (Article XVIII)**

- Provides for development of guidelines regarding the use of the compact by Indian tribes.

*Policy and Practice – April 2014 issue*

*Slug: Feature 2*

*Word Count: 1,207*

*Art: head shots of M. Peterson and A. Light*

### ***APHSA and AAICPC Launch Transformation Pilot with Federal Support***

*By Mical Peterson and Anita Light*

In October 2013, the American Public Human Services Association (APHSA) and its affiliate, the Association of Administrators of the Interstate Compact on the Placement of Children (AAICPC), received a Partnership Fund for Program Integrity Innovation<sup>1</sup> grant to develop and implement a national electronic web-based system to improve efficiency in the administration of the Interstate Compact on the Placement of Children (ICPC).<sup>2</sup> The Administration for Children and Families (ACF), Administration on Children, Youth, and Families (ACYF), Children's Bureau (CB), is administering this grant through a cooperative agreement. The project will develop and implement the National Electronic Interstate Compact Enterprise (NEICE), which will be based on a modified version of the electronic web-based Interstate Compact System (ICS) developed by the state of Florida under the leadership of Stephen Pennypacker, who, was serving as AAICPC president and deputy compact administrator at that time; and Laura Kirksey, the ICPC administrator for Florida.

#### **Need for an Innovative Solution to a Decades-Old Problem**

Public, private, and tribal child welfare agencies and stakeholders nationwide have long recognized that we must shorten the time it takes for a child to achieve permanency. When the ICPC is invoked to determine whether a placement is safe and suitable for a child in the child welfare system, the time it takes to achieve permanency can be extended even longer.

Additionally, many states currently use paper-based processes to share and exchange case files, information, and evaluations, as well as collect, track, synthesize, and report comprehensive data regarding the placement of children across state lines. The AAICPC identified these processes as another cause for the excessive delays in placements that ultimately are determined to be safe and appropriate. Anecdotally, a child can wait three to nine months in foster care for an interstate placement.

The AAICPC has worked for many years to address these issues and improve its administrative processes; and most recently, by adopting and amending new regulations, rewriting the ICPC, and

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1. The 2010 Consolidated Appropriations Act authorized \$32.5 million in appropriations through FY 2013 for the Partnership Fund for Program Integrity and Innovation to fund pilot projects and evaluations that test ideas for improving federal assistance programs. <http://fundedpilots.community.collaborativeforumonline.com/supporting-permanent-placements-of-foster-care-children-through-electronic-records-exchange>

2. The Interstate Compact on the Placement of Children (ICPC) provides for the movement and safe placement of children between states when the children are in the custody of a state, being placed for private/independent adoption, or under certain circumstances, being placed by a parent or guardian in a residential treatment facility. ICPC has been enacted by all 50 states, the District of Columbia, and the U.S. Virgin Islands. More information about the ICPC is available at <http://www.aphsa.org/content/AAICPC/en/home.html>

collaborating with various public and private national organizations. While these activities have been essential to the operation of the ICPC, they have not been sufficient.

Now, through the innovative initiative of the state of Florida, an ICPC compact member, financing from the Partnership Fund and support from APHSA and ACF, the AAICPC can usher the ICPC administrative process into the 21st century. The electronic system to be developed under the grant will securely exchange case files and other materials needed in real time, enabling timely communications and placement decisions regarding interstate placements of children. In addition, the system will collect, track, and report uniform interstate data to provide: (1) a comparison of the state's cost savings for postal charges and other paper-based expenses pre- and post-pilot; (2) evidence-based information about best practices when placing children interstate; and (3) ways to increase organizational efficiencies and drive decision-making.

Florida's experience with their electronic web-based system has resulted in reducing the time it takes to complete the child placement process across state borders and a reduction in the costs of the program due to fewer mailings and less staff time. It is hoped that this project will realize the same efficiencies and cost savings as those experienced in Florida.

#### **Who Is On the NEICE Team?**

The NEICE project will be implemented in six states over the course of 17 months, from October 2013 through February 2015 and is scheduled to go live for the real-time exchange of files and tracking information for reports by June 2014. Through an open application process, APHSA solicited the participation of states willing to help refine and test the application with their ICPC caseload. The six pilot sites are: the District of Columbia, Florida, Indiana, Nevada, South Carolina, and Wisconsin. These sites demonstrated commitment and support from their child welfare leadership, buy-in of their ICPC and Information Technology (IT) management staff, and a sufficient number of cases sent or received between the selected states to ensure a sufficient evaluation.

*The Evaluation Team comes from Walter R. McDonald & Associates, Inc. (WRMA).* Since the firm's founding in 1980, WRMA has conducted hundreds of projects ranging from short-term, customized projects to large-scale national efforts of five years or more. These projects have been primarily focused on outcome measurements to evaluate the quality of services delivered, along with the efficiency, productivity, and the costs of providing those services. WRMA will assess the efficiency and effectiveness of NEICE by measuring timeliness of communication, expeditious exchange of case documentation, utilization, and adherence to streamlined ICPC processes, as well as overall project management and implementation. Additional questions, such as those related to the permanency of child placements and associated savings, may be addressed if it is feasible to do so within the 17-month project period. Results will be included in a final public report.

*Tetrus Corporation* has been selected through a competitive bid procurement process as the technical vendor to build the system. Tetrus will modify the Florida ICS to develop the NEICE pilot and implement the system among the six sites. Tetrus will also provide assistance to the pilot locations in overcoming technical hurdles to implementation. Their extensive experience in developing secure, cross-domain, information-sharing systems across local, state, and national settings will contribute to the success of this project.

*A National Advisory Group* will be convened to inform the development of learning opportunities to enhance data literacy and provide guidance on improvements related to data validity, reliability, and exchange.

### **Looking Forward**

The effective development and execution of the NEICE will revolutionize the ICPC as we know it. Beyond the pilot period, the goal of NEICE is for the system to be adopted for use by all 50 states, the District of Columbia, and the U.S. Virgin Islands, ultimately serving and benefiting children, families, the public, private and tribal child welfare agencies nationwide, and other multidisciplinary groups that work in support of and throughout the child placement continuum.

However, our vision is not only to create a platform that transforms the interstate administrative process for potential expansion to all states, but to demonstrate that the attributes of NEICE can be transferable when developing interconnected systems and programs across all health and human services.

As state leaders from Nevada said in a letter of commitment to participate, “We view every piece of paper or electronic communication received as a child waiting to find a home and we take our commitment to the children, caregivers and our state partners very seriously....We have witnessed firsthand the gains that can be achieved for children by maximizing our use of technology, data and streamlining processes that move children to forever families quicker. We are excited about participating in anything that is part of that mission.”<sup>3</sup>

This grant opportunity will improve the processes of the ICPC and ultimately improve outcomes for these children and their families.

The primary point of contact is Marci Roth, APHSA’s project director. If you have any questions, please contact her at [mroth@aphsa.org](mailto:mroth@aphsa.org).

Mical Peterson is the Children’s Services program supervisor at the Minnesota Department of Human Services.

Anita Light is the senior deputy executive director at APHSA.

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3. *Letter of Commitment for Participation in the National Electronic Interstate Compact Enterprise (NEICE) pilot*. Nevada Department of Health and Human Services, Division of Child and Family Services. December 16, 2013

